

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2000-1029

January 17, 2001

VERIZON NEW ENGLAND INC.
D/B/A VERIZON MAINE
Request for Approval of
Interconnection Agreement
Amendments with FairPoint
Communications Solutions Corp.

ORDER APPROVING
INTERCONNECTION
AGREEMENT AMENDMENTS
1 AND 2 WITH FAIRPOINT
COMMUNICATIONS
SOLUTIONS CORP.

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

In this Order, we approve Amendments 1 and 2 to an Interconnection Agreement between New England Telephone and Telegraph Company d/b/a Bell Atlantic - Maine (Bell Atlantic) and FairPoint Communications Solutions Corp. (FairPoint), pursuant to section 252 of the Telecommunications Act of 1996.

On December 12, 2000, in Docket No. 2000-788, the Commission approved an interconnection agreement between Bell Atlantic and FairPoint. On August 1, 2000, Bell Atlantic changed its name to Verizon New England Inc. d/b/a Verizon Maine.

On December 21, 2000, Verizon Maine filed Amendments 1 and 2 to its agreement with FairPoint pursuant to 47 U.S.C. § 252, enacted by the Telecommunications Act of 1996. Interconnection agreements provide for interconnection between an incumbent local exchange carrier (ILEC) and another telecommunications carrier, including a competitive local exchange carrier (CLEC). An interconnection agreement may allow a telecommunications carrier to purchase unbundled network elements, or local services at a discounted wholesale rate (the discount reflecting avoided cost), or both, from an ILEC (or CLEC). The amendments respond to orders issued by the Federal Communications Commission in CC Docket No. 96-98 (the UNE Remand proceeding).

Section 252(e)(2) states that a state commission may reject a negotiated agreement only if it finds that "the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement" or if "the implementation of such agreement or portion is not consistent with the public interest, convenience and necessity." We received no comments by the comment deadline set in a January 3, 2001 Notice of Agreement and Opportunity to Comment. We do not make either of the findings set for in section 252(e)(2) for rejection, and we therefore approve the agreement amendment.

We qualify our approval in two respects, however, and reserve findings on future potential issues. First, we reserve judgment on whether the rates contained in the amended agreement are reasonable from the perspective of Verizon Maine's retail ratepayers. Verizon Maine is presently under an alternative form of regulation (AFOR) ordered by the Commission in Docket No. 94-123. The AFOR began in December, 1995. Under the AFOR, Verizon Maine bears the risk of lost revenues resulting from rates that are too low. In Docket No. 99-851, we have continued the AFOR until May 30, 2001. We do not resolve whether Verizon Maine is receiving reasonable compensation from any CLECs that may avail themselves of the rates provided to FairPoint pursuant to 47 U.S.C. § 252(i).

Second, section 271(c) of the Act, 47 U.S.C. § 271(c), requires that the Bell Operating Companies (BOCs) meet certain requirements before they are allowed to provide interLATA service (the so-called "competitive checklist"). Under section 271(d)(3), the Federal Communications Commission (FCC) must determine whether the BOC has met the competitive checklist before granting the BOC authority to provide interLATA service within its region. Prior to making that determination, the FCC must consult with state commissions to verify the compliance of the BOC with the checklist. Our approval of this agreement amendment should not be construed as a finding that Verizon Maine has met those requirements.

The agreement amendment filed by Verizon Maine provides for interconnection between FairPoint and Verizon Maine's network in Maine. If FairPoint seeks to interconnect with networks maintained by independent local exchange carriers in Maine, it must seek a termination, suspension, or modification of the exemption contained in 47 U.S.C. 251(f)(1)(A).

ORDERING PARAGRAPHS

Accordingly, we

1. Approve Amendments 1 and 2 filed by Verizon New England Inc. d/b/a Verizon Maine to the Interconnection Agreement between New England Telephone and Telegraph Company d/b/a Bell Atlantic - Maine and FairPoint Communications Solutions Corp. attached hereto, pursuant to 47 U.S.C. § 252(e); and
2. Order that the Administrative Director shall make a copy of the attached Amendments available for public inspection and copying pursuant to 47 C.F.R. § 252(h) within 10 days of the date of this Order.

Dated at Augusta, Maine, this 17th day of January, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.